

SUBCHAPTER C—INSTITUTIONAL MANAGEMENT

PART 540—CONTACT WITH PERSONS IN THE COMMUNITY

Subpart A—General

Sec.

540.2 Definitions.

Subpart B—Correspondence

540.10 Purpose and scope.
540.11 Mail depositories.
540.12 Controls and procedures.
540.13 Notification of rejections.
540.14 General correspondence.
540.15 Restricted general correspondence.
540.16 Inmate correspondence while in segregation and holdover status.
540.17 Correspondence between confined inmates.
540.18 Special mail.
540.19 Legal correspondence.
540.20 Inmate correspondence with representatives of the news media.
540.21 Payment of postage.
540.22 Special postal services.
540.23 Inmate funds received through the mails.
540.24 Returned mail.
540.25 Change of address and forwarding of mail for inmates.

Subpart C [Reserved]

Subpart D—Visiting Regulations

540.40 Purpose and scope.
540.41 Visiting facilities.
540.42 Visiting times.
540.43 Frequency of visits and number of visitors.
540.44 Regular visitors.
540.45 Qualification as special visitor.
540.46 Attorney visits.
540.47 Media visits.
540.48 [Reserved]
540.49 Transportation assistance.
540.50 Visits to inmates not in regular population status.
540.51 Procedures.
540.52 Penalty for violation of visiting regulations.

Subpart E—Contact With News Media

540.60 Purpose and scope.
540.61 Authorization.
540.62 Institutional visits.
540.63 Personal interviews.
540.64 Press pools.
540.65 Release of information.

Subpart F—Incoming Publications

540.70 Purpose and scope.
540.71 Procedures.
540.72 Statutory restrictions requiring return of commercially published information or material which is sexually explicit or features nudity.

Subparts G—H [Reserved]

Subpart I—Telephone Regulations for Inmates

540.100 Purpose and scope.
540.101 Procedures.
540.102 Monitoring of inmate telephone calls.
540.103 Inmate telephone calls to attorneys.
540.104 Responsibility for inmate misuse of telephones.
540.105 Expenses of inmate telephone use.

AUTHORITY: 5 U.S.C. 301, 551, 552a; 18 U.S.C. 1791, 3621, 3622, 3624, 4001, 4042, 4081, 4082 (Repealed in part as to offenses committed on or after November 1, 1987), 5006–5024 (Repealed October 12, 1984 as to offenses committed after that date), 5039; 28 U.S.C. 509, 510.

Subpart A—General

SOURCE: 50 FR 40108, Oct. 1, 1985, unless otherwise noted.

§ 540.2 Definitions.

(a) *General correspondence* means incoming or outgoing correspondence other than *special mail*. *General correspondence* includes packages sent through the mail.

(1) *Open general correspondence* means general correspondence which is not limited to a list of authorized correspondents, except as provided in § 540.17.

(2) *Restricted general correspondence* means general correspondence which is limited to a list of authorized correspondents.

(b) *Representatives of the news media* means persons whose principal employment is to gather or report news for:

(1) A newspaper which qualifies as a general circulation newspaper in the community in which it is published. A newspaper is one of “general circulation” if it circulates among the general

§ 540.10

public and if it publishes news of a general character of general interest to the public such as news of political, religious, commercial, or social affairs. A key test to determine whether a newspaper qualifies as a "general circulation" newspaper is to determine whether the paper qualifies for the purpose of publishing legal notices in the community in which it is located or the area to which it distributes;

(2) A news magazine which has a national circulation and is sold by newsstands and by mail subscription to the general public;

(3) A national or international news service; or

(4) A radio or television news program, whose primary purpose is to report the news, of a station holding a Federal Communications Commission license.

(c) *Special mail* means correspondence sent to the following: President and Vice President of the United States, the U.S. Department of Justice (including the Bureau of Prisons), U.S. Attorneys Offices, Surgeon General, U.S. Public Health Service, Secretary of the Army, Navy, or Air Force, U.S. Courts (including U.S. Probation Officers), Members of the U.S. Congress, Embassies and Consulates, Governors, State Attorneys General, Prosecuting Attorneys, Directors of State Departments of Corrections, State Parole Commissioners, State Legislators, State Courts, State Probation Officers, other Federal and State law enforcement offices, attorneys, and representatives of the news media.

Special mail also includes correspondence received from the following: President and Vice President of the United States, attorneys, Members of the U.S. Congress, Embassies and Consulates, the U.S. Department of Justice (excluding the Bureau of Prisons but including U.S. Attorneys), other Federal law enforcement officers, State Attorneys General, Prosecuting Attorneys, Governors, U.S. Courts (including U.S. Probation Officers), and State Courts. For incoming correspondence to be processed under the special mail procedures (see §§ 540.18–540.19), the sender must be adequately identified on the envelope, and the front of the envelope

28 CFR Ch. V (7–1–03 Edition)

must be marked "Special Mail—Open only in the presence of the inmate".

Subpart B—Correspondence

SOURCE: 50 FR 40109, Oct. 1, 1985, unless otherwise noted.

§ 540.10 Purpose and scope.

The Bureau of Prisons encourages correspondence that is directed to socially useful goals. The Warden shall establish correspondence procedures for inmates in each institution, as authorized and suggested in this rule.

§ 540.11 Mail depositories.

The Warden shall establish at least one mail depository within the institution for an inmate to place outgoing correspondence. The Warden may establish a separate mail depository for outgoing special mail. Each item placed in a mail depository must contain a return address (see § 540.12(d)).

[50 FR 40109, Oct. 1, 1985, as amended at 64 FR 32171, June 15, 1999]

§ 540.12 Controls and procedures.

(a) The Warden shall establish and exercise controls to protect individuals, and the security, discipline, and good order of the institution. The size, complexity, and security level of the institution, the degree of sophistication of the inmates confined, and other variables require flexibility in correspondence procedures. All Wardens shall establish open general correspondence procedures.

(b) Staff shall inform each inmate in writing promptly after arrival at an institution of that institution's rules for handling of inmate mail. This notice includes the following statement:

The staff of each institution of the Bureau of Prisons has the authority to open all mail addressed to you before it is delivered to you. "Special Mail" (mail from the President and Vice President of the U.S., attorneys, Members of the U.S. Congress, Embassies and Consulates, the U.S. Department of Justice (excluding the Bureau of Prisons but including U.S. Attorneys), other Federal law enforcement officers, State Attorneys General, Prosecuting Attorneys, Governors, U.S. Courts (including U.S. Probation Officers), and State Courts) may be opened only in your presence to be checked for contraband.

Bureau of Prisons, Justice

§ 540.14

This procedure occurs only if the sender is adequately identified on the envelope and the front of the envelope is marked "Special Mail—Open only in the presence of the inmate." Other mail may be opened and read by the staff.

If you do not want your *general* correspondence opened and read, the Bureau will return it to the Postal Service. This means that you will not receive such mail. You may choose whether you want your general correspondence delivered to you subject to the above conditions, or returned to the Postal Service. Whatever your choice, special mail will be delivered to you, after it is opened in your presence and checked for contraband. You can make your choice by signing part I or part II.

PART I—GENERAL CORRESPONDENCE TO BE RETURNED TO THE POSTAL SERVICE

I have read or had read to me the foregoing notice regarding mail. I do not want my general correspondence opened and read. I REQUEST THAT THE BUREAU OF PRISONS RETURN MY GENERAL CORRESPONDENCE TO THE POSTAL SERVICE. I understand that special mail will be delivered to me, after it is opened in my presence and checked for contraband.

(Name) _____
(Reg. No.) _____
(Date) _____

PART II—GENERAL CORRESPONDENCE TO BE OPENED, READ, AND DELIVERED

I have read or had read to me the foregoing notice regarding mail. I WISH TO RECEIVE MY GENERAL CORRESPONDENCE. I understand that the Bureau of Prisons may open and read my general correspondence if I choose to receive same. I also understand that special mail will be delivered to me, after it is opened in my presence and checked for contraband.

(Name) _____
(Reg. No.) _____
(Date) _____

Inmate (Name), (Reg. No.), refused to sign this form. He (she) was advised by me that the Bureau of Prisons retains the authority to open and read all general correspondence. The inmate was also advised that his (her) refusal to sign this form will be interpreted as an indication that he (she) wishes to receive general correspondence subject to the conditions in part II above.

Staff Member's Signature _____
Date _____

(c) Staff shall inform an inmate that letters placed in the U.S. Mail are placed there at the request of the inmate and the inmate must assume responsibility for the contents of each letter. Correspondence containing

threats, extortion, etc., may result in prosecution for violation of federal laws. When such material is discovered, the inmate may be subject to disciplinary action, the written material may be copied, and all material may be referred to the appropriate law enforcement agency for prosecution.

(d) The inmate is responsible for filling out the return address completely on envelopes provided for the inmate's use by the institution. If the inmate uses an envelope not provided by the institution, the inmate is responsible for ensuring that the envelope used contains all return address information listed on the envelope provided by the institution.

[50 FR 40109, Oct. 1, 1985, as amended at 64 FR 32171, June 15, 1999]

§ 540.13 Notification of rejections.

When correspondence is rejected, the Warden shall notify the sender in writing of the rejection and the reasons for the rejection. The Warden shall also give notice that the sender may appeal the rejection. The Warden shall also notify an inmate of the rejection of any letter addressed to that inmate, along with the reasons for the rejection and shall notify the inmate of the right to appeal the rejection. The Warden shall refer an appeal to an official other than the one who originally disapproved the correspondence. The Warden shall return rejected correspondence to the sender unless the correspondence includes plans for or discussion of commission of a crime or evidence of a crime, in which case there is no need to return the correspondence or give notice of the rejection, and the correspondence should be referred to appropriate law enforcement authorities. Also, contraband need not be returned to the sender.

§ 540.14 General correspondence.

(a) Institution staff shall open and inspect all incoming general correspondence. Incoming general correspondence may be read as frequently as deemed necessary to maintain security or monitor a particular problem confronting an inmate.

(b) Except for "special mail," outgoing mail from a pretrial inmate may

§ 540.15

28 CFR Ch. V (7-1-03 Edition)

not be sealed by the inmate and may be read and inspected by staff.

(c)(1) Outgoing mail from a sentenced inmate in a minimum or low security level institution may be sealed by the inmate and, except as provided for in paragraphs (c)(1)(i) through (iv) of this section, is sent out unopened and uninspected. Staff may open a sentenced inmate's outgoing general correspondence:

(i) If there is reason to believe it would interfere with the orderly running of the institution, that it would be threatening to the recipient, or that it would facilitate criminal activity;

(ii) If the inmate is on a restricted correspondence list;

(iii) If the correspondence is between inmates (see § 540.17); or

(iv) If the envelope has an incomplete return address.

(2) Except for "special mail," outgoing mail from a sentenced inmate in a medium or high security level institution, or an administrative institution may not be sealed by the inmate and may be read and inspected by staff.

(d) The Warden may reject correspondence sent by or to an inmate if it is determined detrimental to the security, good order, or discipline of the institution, to the protection of the public, or if it might facilitate criminal activity. Correspondence which may be rejected by a Warden includes, but is not limited to, correspondence which contains any of the following:

(1) Matter which is nonmailable under law or postal regulations;

(2) Matter which depicts, describes, or encourages activities which may lead to the use of physical violence or group disruption;

(3) Information of escape plots, of plans to commit illegal activities, or to violate Bureau rules or institution guidelines;

(4) Direction of an inmate's business (See § 541.13, Prohibited Act No. 408). An inmate, unless a pre-trial detainee, may not direct a business while confined.

This does not, however, prohibit correspondence necessary to enable an inmate to protect property and funds that were legitimately the inmate's at the time of commitment. Thus, for example, an inmate may correspond

about refinancing an existing mortgage or sign insurance papers, but may not operate a mortgage or insurance business while in the institution.

(5) Threats, extortion, obscenity, or gratuitous profanity;

(6) A code;

(7) Sexually explicit material (for example, personal photographs) which by its nature or content poses a threat to an individual's personal safety or security, or to institution good order; or

(8) Contraband. (See § 500.1 of this chapter. A package received without prior authorization by the Warden is considered to be contraband.)

[50 FR 40109, Oct. 1, 1985, as amended at 56 FR 4159, Feb. 1, 1991; 62 FR 65186, Dec. 10, 1997]

§ 540.15 Restricted general correspondence.

(a) The Warden may place an inmate on restricted general correspondence based on misconduct or as a matter of classification. Determining factors include the inmate's:

(1) Involvement in any of the activities listed in § 540.14(d);

(2) Attempting to solicit funds or items (e.g., samples), or subscribing to a publication without paying for the subscription;

(3) Being a security risk;

(4) Threatening a government official; or

(5) Having committed an offense involving the mail.

(b) The Warden may limit to a reasonable number persons on the approved restricted general correspondence list of an inmate.

(c) The Warden shall use one of the following procedures before placing an inmate on restricted general correspondence.

(1) Where the restriction will be based upon an incident report, procedures must be followed in accordance with inmate disciplinary regulations (part 541, subpart B of this chapter).

(2) Where there is no incident report, the Warden:

(i) Shall advise the inmate in writing of the reasons the inmate is to be placed on restricted general correspondence;

(ii) Shall give the inmate the opportunity to respond to the classification or change in classification; the inmate

has the option to respond orally or to submit written information or both; and

(iii) Shall notify the inmate of the decision and the reasons, and shall advise the inmate that the inmate may appeal the decision under the Administrative Remedy Procedure.

(d) When an inmate is placed on restricted general correspondence, the inmate may, except as provided in §§ 540.16 and 540.17:

(1) Correspond with the inmate's spouse, mother, father, children, and siblings, unless the correspondent is involved in an violation of correspondence regulations, or would be a threat to the security or good order of the institution;

(2) Request other persons also to be placed on the approved correspondence list, subject to investigation, evaluation, and approval by the Warden; with prior approval, the inmate may write to a proposed correspondence to obtain a release authorizing an investigation; and

(3) Correspond with former business associates, unless it appears to the Warden that the proposed correspondent would be a threat to the security or good order of the institution, or that the resulting correspondence could reasonably be expected to result in criminal activity. Correspondence with former business associates is limited to social matters.

(e) The Warden may allow an inmate additional correspondence with persons other than those on the inmate's approved mailing list when the correspondence is shown to be necessary and does not require an addition to the mailing list because it is not of an ongoing nature.

§ 540.16 Inmate correspondence while in segregation and holdover status.

(a) The Warden shall permit an inmate in holdover status (i.e., enroute to a designated institution) to have correspondence privileges similar to those of other inmates insofar as practical.

(b) The Warden shall permit an inmate in segregation to have full correspondence privileges unless placed on restricted general correspondence under § 540.15.

§ 540.17 Correspondence between confined inmates.

An inmate may be permitted to correspond with an inmate confined in any other penal or correctional institution if the other inmate is either a member of the immediate family, or is a party or witness in a legal action in which both inmates are involved. Such correspondence may be approved in other exceptional circumstances, with particular regard to the security level of the institution, the nature of the relationship between the two inmates, and whether the inmate has other regular correspondence. The following additional limitations apply:

(a) Such correspondence at institutions of all security levels may always be inspected and read by staff at the sending and receiving institutions (it may not be sealed by the inmate); and

(b)(1) The appropriate unit manager at each institution must approve of the correspondence if both inmates are housed in Federal institutions and both inmates are members of the same immediate family or are a party or witness in a legal action in which both inmates are involved.

(2) The Wardens of both institutions must approve of the correspondence if one of the inmates is housed at a non-Federal institution or if approval is being granted on the basis of exceptional circumstances.

[50 FR 40109, Oct. 1, 1985, as amended at 61 FR 65204, Dec. 18, 1995]

§ 540.18 Special mail.

(a) The Warden shall open incoming special mail only in the presence of the inmate for inspection for physical contraband and the qualification of any enclosures as special mail. The correspondence may not be read or copied if the sender is adequately identified on the envelope, and the front of the envelope is marked "Special Mail—Open only in the presence of the inmate".

(b) In the absence of either adequate identification or the "special mail" marking indicated in paragraph (a) of this section appearing on the envelope, staff may treat the mail as general correspondence and may open, inspect, and read the mail.

(c)(1) Except as provided for in paragraph (c)(2) of this section, outgoing special mail may be sealed by the inmate and is not subject to inspection.

(2) Special mail shall be screened in accordance with the provisions of paragraph (c)(2)(iii) of this section when the special mail is being sent by an inmate who has been placed on restricted special mail status.

(i) An inmate may be placed on restricted special mail status if the Warden, with the concurrence of the Regional Counsel, documents in writing that the special mail either has posed a threat or may pose a threat of physical harm to the recipient (e.g., the inmate has previously used special mail to threaten physical harm to a recipient).

(ii) The Warden shall notify the inmate in writing of the reason the inmate is being placed on restricted special mail status.

(iii) An inmate on restricted special mail status must present all materials and packaging intended to be sent as special mail to staff for inspection. Staff shall inspect the special mail material and packaging, in the presence of the inmate, for contraband. If the intended recipient of the special mail has so requested, staff may read the special mail for the purpose of verifying that the special mail does not contain a threat of physical harm. Upon completion of the inspection, staff shall return the special mail material to the inmate if the material does not contain contraband, or contain a threat of physical harm to the intended recipient. The inmate must then seal the special mail material in the presence of staff and immediately give the sealed special mail material to the observing staff for delivery. Special mail determined to pose a threat to the intended recipient shall be forwarded to the appropriate law enforcement entity. Staff shall send a copy of the material, minus the contraband, to the intended recipient along with notification that the original of the material was forwarded to the appropriate law enforcement entity.

(iv) The Warden shall review an inmate's restricted special mail status at least once every 180 days. The inmate is to be notified of the results of this review. An inmate may be removed

from restricted special mail status if the Warden determines, with the concurrence of the Regional Counsel, that the special mail does not threaten or pose a threat of physical harm to the intended recipient.

(v) An inmate on restricted mail status may seek review of the restriction through the Administrative Remedy Program.

(d) Except for special mail processed in accordance with paragraph (c)(2) of this section, staff shall stamp the following statement directly on the back side of the inmate's outgoing special mail: "The enclosed letter was processed through special mailing procedures for forwarding to you. The letter has neither been opened nor inspected. If the writer raises a question or problem over which this facility has jurisdiction, you may wish to return the material for further information or clarification. If the writer encloses correspondence for forwarding to another addressee, please return the enclosure to the above address."

[50 FR 40108, Oct. 1, 1985, as amended at 62 FR 65185, Dec. 10, 1997]

§ 540.19 Legal correspondence.

(a) Staff shall mark each envelope of incoming legal mail (mail from courts or attorneys) to show the date and time of receipt, the date and time the letter is delivered to an inmate and opened in the inmate's presence, and the name of the staff member who delivered the letter. The inmate may be asked to sign as receiving the incoming legal mail. This paragraph applies only if the sender has marked the envelope as specified in § 540.18.

(b) The inmate is responsible for advising any attorney that correspondence will be handled as special mail only if the envelope is marked with the attorney's name and an indication that the person is an attorney, and the front of the envelope is marked "Special Mail—Open only in the presence of the inmate". Legal mail shall be opened in accordance with special mail procedures (see § 540.18).

(c) Grounds for the limitation or denial of an attorney's correspondence rights or privileges are stated in part 543, subpart B. If such action is taken,

Bureau of Prisons, Justice

§ 540.22

the Warden shall give written notice to the attorney and the inmate affected.

(d) In order to send mail to an attorney's assistant or to a legal aid student or assistant, an inmate shall address the mail to the attorney or legal aid supervisor, or the legal organization or firm, to the attention of the student or assistant.

(e) Mail to an inmate from an attorney's assistant or legal aid student or assistant, in order to be identified and treated by staff as special mail, must be properly identified on the envelope as required in paragraph (b) of this section, and must be marked on the front of the envelope as being mail from the attorney or from the legal aid supervisor.

§ 540.20 Inmate correspondence with representatives of the news media.

(a) An inmate may write through "special mail" to representatives of the news media specified by name or title (see § 540.2(b)).

(b) The inmate may not receive compensation or anything of value for correspondence with the news media. The inmate may not act as reporter or publish under a byline.

(c) Representatives of the news media may initiate correspondence with an inmate. Staff shall open incoming correspondence from representatives of the media and inspect for contraband, for its qualification as media correspondence, and for content which is likely to promote either illegal activity or conduct contrary to Bureau regulations.

§ 540.21 Payment of postage.

(a) Except as provided in paragraphs (d), (e), (f), and (i) of this section, postage charges are the responsibility of the inmate. The Warden shall ensure that the inmate commissary has postage stamps available for purchase by inmates.

(b) Writing paper and envelopes are provided at no cost to the inmate. Inmates who use their own envelopes must place a return address on the envelope (see § 540.12(d)).

(c) Inmate organizations will purchase their own postage.

(d) An inmate who has neither funds nor sufficient postage and who wishes

to mail legal mail (includes courts and attorneys) or Administrative Remedy forms will be provided the postage stamps for such mailing. To prevent abuses of this provision, the Warden may impose restrictions on the free legal and administrative remedy mailings.

(e) When requested by an inmate who has neither funds nor sufficient postage, and upon verification of this status by staff, the Warden shall provide the postage stamps for mailing a reasonable number of letters at government expense to enable the inmate to maintain community ties. To prevent abuses of this provision, the Warden may impose restrictions on the free mailings.

(f) Mailing at government expense is also allowed for necessary correspondence in verified emergency situations for inmates with neither funds nor sufficient postage.

(g) Inmates must sign for all stamps issued to them by institution staff.

(h) Mail received with postage due is not ordinarily accepted by the Bureau of Prisons.

(i) Holdovers and pre-trial commitments will be provided a reasonable number of stamps for the mailing of letters at government expense.

(j) Inmates may not be permitted to receive stamps or stamped items (e.g., envelopes embossed with stamps, postal cards with postage affixed) other than by issuance from the institution or by purchase from commissary.

[50 FR 40109, Oct. 1, 1985, as amended at 64 FR 32171, June 15, 1999]

§ 540.22 Special postal services.

(a) An inmate, at no cost to the government, may send correspondence by registered, certified, or insured mail, and may request a return receipt.

(b) An inmate may insure outgoing personal correspondence (e.g., a package containing the inmate's hobbycrafts) by completing the appropriate form and applying sufficient postage.

(1) In the event of loss or damage, any claim relative to this matter is made to the U.S. Postal Service, either by the inmate or the recipient. The U.S. Postal Service will only indemnify a piece of insured mail for the actual

§ 540.23

value of an item, regardless of declared value.

(2) Inmate packages forwarded as a result of institution administration are considered official mail, except as otherwise specified (for example, hobbycraft articles mailed out of the institution). Official mail is not insured. If such an item is subsequently lost or damaged in the mail process the inmate may file a tort claim with the Bureau of Prisons (see part 543, subpart C of this chapter).

(c) Certified mail is sent first class at the inmate's expense.

(d) An inmate may not be provided such services as express mail, COD, private carriers, or stamp collecting while confined.

§ 540.23 Inmate funds received through the mails.

(a) An inmate, upon completing the appropriate form, may receive funds from family or friends or, upon approval of the Warden, from other persons for crediting to the inmate's trust fund account.

(b) An inmate is responsible for advising persons forwarding the inmate funds that all negotiable instruments, such as checks and money orders, should give both the inmate's name and register number, thereby helping to ensure a deposit to the proper inmate's account. Negotiable instruments not accepted because they are incorrectly prepared will be returned to the sender, with a letter of explanation. A copy of this letter will be sent to the inmate.

(c) An inmate may not receive through the mail unsolicited funds, nor may the inmate solicit funds or initiate requests which might result in the solicitation of funds from persons other than as specified in paragraph (a) of this section.

(d) An inmate may not receive through the mail funds for direct services provided by the government, such as medical services.

§ 540.24 Returned mail.

Staff shall open and inspect for contraband all undelivered mail returned to an institution by the Post Office before returning it to the inmate. The purpose of this inspection is to deter-

28 CFR Ch. V (7-1-03 Edition)

mine if the content originated with the inmate sender identified on the letter or package; to prevent the transmission of material, substances, and property which an inmate is not permitted to possess in the institution; and to determine that the mail was not opened or tampered with before its return to the institution. Any remailing is at the inmate's expense. Any returned mail qualifying as "special mail" is opened and inspected for contraband in the inmate's presence.

§ 540.25 Change of address and forwarding of mail for inmates.

(a) Staff shall make available to an inmate who is being released or transferred appropriate Bureau of Prisons and U.S. Postal Service forms for change of address.

(b) Inmates are responsible for informing their correspondents of a change of address.

(c) Postage for mailing change of address cards is paid by the inmate.

(d) Except as provided in paragraphs (e) through (g) of this section, all mail received for a released or transferred inmate will be returned to the U.S. Postal Service for disposition in accordance with U.S. Postal Service regulations.

(e) Staff shall use all means practicable to forward special mail.

(f) Staff shall forward inmate general correspondence to the new address for a period of 30 days.

(g) Staff shall permit an inmate released temporarily on writ to elect either to have general correspondence held at the institution for a period not to exceed 30 days, or returned to the U.S. Postal Service for disposition.

(1) If the inmate refuses to make this election, staff at the institution shall document this refusal, and any reasons, in the inmate's central file. Staff shall return to the U.S. Postal Service all general correspondence received for such as inmate after the inmate's departure.

(2) If the inmate does not return from writ within the time indicated, staff shall return to the U.S. Postal Service all general correspondence being held for that inmate for disposition in accordance with postal regulations.

Bureau of Prisons, Justice

§ 540.44

Subpart C [Reserved]

Subpart D—Visiting Regulations

SOURCE: 45 FR 44232, June 30, 1980, unless otherwise noted.

§ 540.40 Purpose and scope.

The Bureau of Prisons encourages visiting by family, friends, and community groups to maintain the morale of the inmate and to develop closer relationships between the inmate and family members or others in the community. The Warden shall develop procedures consistent with this rule to permit inmate visiting. The Warden may restrict inmate visiting when necessary to ensure the security and good order of the institution.

[45 FR 44232, June 30, 1980, as amended at 58 FR 39095, July 21, 1993]

§ 540.41 Visiting facilities.

The Warden shall have the visiting room arranged so as to provide adequate supervision, adapted to the degree of security required by the type of institution. The Warden shall ensure that the visiting area is as comfortable and pleasant as practicable, and appropriately furnished and arranged. If space is available, the Warden shall have a portion of the visiting room equipped and set up to provide facilities for the children of visitors.

(a) Institutions of minimum and low security levels may permit visits beyond the security perimeter, but always under supervision of staff.

(b) Institutions of medium and high security levels, and administrative institutions may establish outdoor visiting, but it will always be inside the security perimeter and always under supervision of staff.

[45 FR 44232, June 30, 1980, as amended at 51 FR 26127, July 18, 1986; 56 FR 4159, Feb. 1, 1991]

§ 540.42 Visiting times.

(a) Each Warden shall establish a visiting schedule for the institution. At a minimum, the Warden shall establish visiting hours at the institution on Saturdays, Sundays, and holidays. The restriction of visiting to these days may be a hardship for some families

and arrangements for other suitable hours shall be made to the extent practicable. Where staff resources permit, the Warden may establish evening visiting hours.

(b) Consistent with available resources, such as space limitations and staff availability, and with concerns of institution security, the Warden may limit the visiting period. With respect to weekend visits, for example, some or all inmates and visitors may be limited to visiting on Saturday or on Sunday, but not on both days, in order to accommodate the volume of visitors. There is no requirement that every visitor has the opportunity to visit on both days of the weekend, nor that every inmate has the opportunity to have visits on both days of the weekend.

[51 FR 26127, July 18, 1986]

§ 540.43 Frequency of visits and number of visitors.

The Warden shall allow each inmate a minimum of four hours visiting time per month. The Warden may limit the length or frequency of visits only to avoid chronic overcrowding. The Warden may establish a guideline for the maximum number of persons who may visit an inmate at one time, to prevent overcrowding in the visiting room or unusual difficulty in supervising a visit. Exceptions may be made to any local guideline when indicated by special circumstances, such as distance the visitor must travel, frequency of the inmate's visits, or health problems of the inmate or visitor.

§ 540.44 Regular visitors.

An inmate desiring to have regular visitors must submit a list of proposed visitors to the designated staff. See § 540.45 for qualification as special visitor. Staff are to compile a visiting list for each inmate after suitable investigation in accordance with § 540.51(b) of this part. The list may include:

(a) *Members of the immediate family.* These persons include mother, father, step-parents, foster parents, brothers and sisters, spouse, and children. These individuals are placed on the visiting list, absent strong circumstances which preclude visiting.

(b) *Other relatives.* These persons include grandparents, uncles, aunts, in-laws, and cousins. They may be placed on the approved list if the inmate wishes to have visits from them regularly and if there exists no reason to exclude them.

(c) *Friends and associates.* The visiting privilege ordinarily will be extended to friends and associates having an established relationship with the inmate prior to confinement, unless such visits could reasonably create a threat to the security and good order of the institution. Exceptions to the prior relationship rule may be made, particularly for inmates without other visitors, when it is shown that the proposed visitor is reliable and poses no threat to the security or good order of the institution.

(d) *Persons with prior criminal convictions.* The existence of a criminal conviction alone does not preclude visits. Staff shall give consideration to the nature, extent and recentness of convictions, as weighed against the security considerations of the institution. Specific approval of the Warden may be required before such visits take place.

(e) *Children under sixteen.* Children under the age of 16 may not visit unless accompanied by a responsible adult. Children shall be kept under supervision of a responsible adult or a children's program. Exceptions in unusual circumstances may be made by special approval of the Warden.

[45 FR 44232, June 30, 1980, as amended at 56 FR 4159, Feb. 1, 1991; 68 FR 10658, Mar. 6, 2003]

§ 540.45 Qualification as special visitor.

Persons in the categories listed in this section may qualify as special visitors rather than as regular visitors. Visits by special visitors ordinarily are for a specific purpose and ordinarily are not of a recurring nature. Except as specified, the conditions of visiting for special visitors are the same as for regular visitors.

(a) *Business visitor.* Except for pretrial inmates, an inmate is not permitted to engage actively in a business or profession. An inmate who was engaged in a business or profession prior to commitment is expected to assign authority for the operation of such business or profession to a person in the commu-

nity. Pretrial inmates may be allowed special visitors for the purpose of protecting the pretrial inmate's business interests. In those instances where an inmate has turned over the operation of a business or profession to another person, there still may be an occasion where a decision must be made which will substantially affect the assets or prospects of the business. The Warden accordingly may permit a special business visit in such cases. The Warden may waive the requirement for the existence of an established relationship prior to confinement for visitors approved under this paragraph.

(b) *Consular visitors.* When it has been determined that an inmate is a citizen of a foreign country, the Warden must permit the consular representative of that country to visit on matters of legitimate business. The Warden may not withhold this privilege even though the inmate is in disciplinary status. The requirement for the existence of an established relationship prior to confinement does not apply to consular visitors.

(c) *Representatives of community groups.* The Warden may approve visits on a recurring basis to representatives from community groups (for example, civic, volunteer, or religious organizations) who are acting in their official capacity. These visits may be for the purpose of meeting with an individual inmate or with a group of inmates. The requirement for the existence of an established relationship prior to confinement for visitors does not apply to representatives of community groups.

(d) *Clergy, former or prospective employers, sponsors, and parole advisors.* Visitors in this category ordinarily provide assistance in release planning, counseling, and discussion of family problems. The requirement for the existence of an established relationship prior to confinement for visitors does not apply to visitors in this category.

[68 FR 10658, Mar. 6, 2003]

§ 540.46 Attorney visits.

Requirements for attorney visits are governed by the provisions on inmate legal activities (see §§ 543.12 through

Bureau of Prisons, Justice

§ 540.51

543.16 of this chapter). Provisions pertinent to attorney visits for pretrial inmates are contained in § 551.117 of this chapter.

[68 FR 10658, Mar. 6, 2003]

§ 540.47 Media visits.

Requirements for media visits are governed by the provisions on contact with news media (see subpart E of this part). A media representative who wishes to visit outside his or her official duties, however, must qualify as a regular visitor or, if applicable, a special visitor.

[68 FR 10658, Mar. 6, 2003]

§ 540.48 [Reserved]

§ 540.49 Transportation assistance.

The Warden shall ensure that directions for transportation to and from the institution are provided for the approved visitor (see § 540.51(b)(4)). Directions for transportation to and from the institution and pay phone service, with commercial transportation phone numbers posted, are also to be made available at the institution to assist visitors.

§ 540.50 Visits to inmates not in regular population status.

(a) *Admission and holdover status.* The Warden may limit to the immediate family of the inmate visits during the admission-orientation period or for holdovers where there is neither a visiting list from a transferring institution nor other verification of proposed visitors.

(b) *Hospital patients.* (1) When visitors request to see an inmate who is hospitalized in the institution, the Chief Medical Officer (or, in his absence, the Health Services Administrator), in consultation with the Captain, shall determine whether a visit may occur, and if so, whether it may be held in the hospital.

(2) Visits to inmates hospitalized in the community may be restricted to only the immediate family and are subject to the general visiting policy of that hospital.

(c) *Detention or segregation status.* Ordinarily, an inmate retains visiting privileges while in detention or seg-

regation status. Visiting may be restricted or disallowed, however, when an inmate, while in detention or segregation status, is charged with, or has been found to have committed, a prohibited act having to do with visiting guidelines or has otherwise acted in a way that would reasonably indicate that he or she would be a threat to the orderliness or security of the visiting room. Loss of an inmate's visiting privileges for other reasons may not occur unless the inmate is provided a hearing before the Discipline Hearing Officer (DHO) in accordance with the provisions of § 541.17 of this chapter, following those provisions which are appropriate to the circumstances, which results in a finding by the DHO that the inmate committed a prohibited act and that there is a lack of other appropriate sanctions or that imposition of an appropriate sanction previously has been ineffective. The Unit Discipline Committee (UDC) may not impose a loss of visiting privileges for inmates in detention or segregation status. The provisions of this paragraph (c) do not interrupt or delay a loss of visiting sanction imposed by the UDC or DHO prior to the inmate's placement in detention or segregation status.

[45 FR 44232, June 30, 1980, as amended at 51 FR 26128, July 18, 1986; 58 FR 39095, July 21, 1993]

§ 540.51 Procedures.

(a) *Responsibility.* The Warden of the institution shall establish and enforce local visiting guidelines in accordance with the rules and regulations of the Bureau of Prisons.

(b) *Preparation of the list of visitors.* (1) Staff shall ask each inmate to submit during the admission-orientation process a list of proposed visitors. After appropriate investigation, staff shall compile a visiting list for each inmate and distribute that list to the inmate and the visiting room officer.

(2) Staff may request background information from potential visitors who are not members of the inmate's immediate family, before placing them on the inmate's approved visiting list. When little or no information is available on the inmate's potential visitor, visiting may be denied, pending receipt

and review of necessary information, including information which is available on the inmate and/or the inmate's offense, including alleged offenses.

(3) If a background investigation is necessary before approving a visitor, the inmate shall be held responsible for mailing a release authorization form to the proposed visitor. That form must be signed and returned to staff by the proposed visitor prior to any further action regarding visiting. Upon receipt of the authorization form, staff may then forward a questionnaire, along with the release authorization, to the appropriate law enforcement or crime information agency.

(4) Staff shall notify the inmate of each approval or disapproval of a requested person for the visiting list. Upon approval of each visitor, staff shall provide the inmate a copy of the visiting guidelines and with directions for transportation to and from the institution. The inmate is responsible for notifying the visitor of the approval or disapproval to visit and is expected to provide the approved visitors with a copy of the visiting guidelines and directions for transportation to and from the institution. The visiting guidelines shall include specific directions for reaching the institution and shall cite 18 U.S.C. 1791, which provides a penalty of imprisonment for not more than twenty years, a fine, or both for providing or attempting to provide to an inmate anything whatsoever without the knowledge and consent of the Warden.

(5) An inmate's visiting list may be amended at any time in accordance with the procedures of this section.

(c) *Verification of special visitor credentials.* Staff must verify the qualifications of special visitors. Staff may request background information and official assignment documentation from the potential visitor for this purpose.

(d) *Identification of visitors.* Staff shall verify the identity of each visitor (through driver's license, photo identification, etc.) prior to admission of the visitor to the institution.

(e) *Notification to visitors.* Staff shall make available to all visitors written guidelines for visiting the institution. Staff shall have the visitor sign a statement acknowledging that the

guidelines were provided and declaring that the visitor does not have any articles in his/her possession which the visitor knows to be a threat to the security of the institution. Staff may deny the visiting privilege to a visitor who refuses to make such a declaration.

(f) *Searching visitors.* Staff may require a visitor to submit to a personal search, including a search of any items of personal property, as a condition of allowing or continuing a visit.

(g) *Record of visitors.* The Warden shall maintain a record of visitors to each inmate. The visitor's signature may be required on that record and shall be required on at least one visiting log or record maintained by the institution.

(h) *Supervision of visits.* Staff shall supervise each inmate visit to prevent the passage of contraband and to ensure the security and good order of the institution. The Warden may establish procedures to enable monitoring of the visiting area, including restrooms located within the visiting area. The Warden must provide notice to both visitors and inmates of the potential for monitoring the visiting area. The Warden may monitor a visitor restroom within the visiting area when there is reasonable suspicion that a visitor and/or an inmate is engaged, or attempting or about to engage, in criminal behavior or other prohibited behavior.

(1) The visiting room officer shall ensure that all visits are conducted in a quiet, orderly, and dignified manner. The visiting room officer may terminate visits that are not conducted in the appropriate manner. See 28 CFR 541.12, item 5, for description of an inmate's responsibility during visits.

(2) Staff shall permit limited physical contact, such as handshaking, embracing, and kissing, between an inmate and a visitor, unless there is clear and convincing evidence that such contact would jeopardize the safety or security of the institution. Where contact visiting is provided, handshaking, embracing, and kissing are ordinarily permitted within the bounds of good taste and only at the beginning and at the end of the visit. The staff may

Bureau of Prisons, Justice

§ 540.62

limit physical contact to minimize opportunity for the introduction of contraband and to maintain the orderly operation of the visiting area.

(3) The visiting room officer may not accept articles or gifts of any kind for an inmate, except packages which have had prior approval by the Warden or a designated staff member. The Warden may allow a visitor to leave money with a designated staff member for deposit in the inmate's commissary account.

(4) The visiting room officer shall be aware of any articles passed between the inmate and the visitor. If there is any reasonable basis to believe that any item is being passed which constitutes contraband or is otherwise in violation of the law or Bureau regulations, the visiting room officer may examine the item.

[45 FR 44232, June 30, 1980, as amended at 51 FR 26128, July 18, 1986; 58 FR 39095, July 21, 1993; 64 FR 25795, May 12, 1999; 68 FR 10658, Mar. 6, 2003]

§ 540.52 Penalty for violation of visiting regulations.

Any act or effort to violate the visiting guidelines of an institution may result in disciplinary action against the inmate, which may include the denial of future visits, possibly over an extended period of time. Moreover, criminal prosecution may be initiated against the visitor, the inmate, or both, in the case of criminal violations.

Subpart E—Contact With News Media

SOURCE: 44 FR 38247, June 29, 1979, unless otherwise noted.

§ 540.60 Purpose and scope.

The Bureau of Prisons recognizes the desirability of establishing a policy that affords the public information about its operations via the news media. Representatives of the news media (see § 540.2) may visit institutions for the purpose of preparing reports about the institution, programs, and activities. It is not the intent of this rule to provide publicity for an inmate or special privileges for the news media, but rather to insure a better informed public. The Bureau of Prisons

also has a responsibility to protect the privacy and other rights of inmates and members of the staff. Therefore, an interview in an institution must be regulated to insure the orderly and safe operation of the institution.

§ 540.61 Authorization.

(a) A news media representative who desires to make a visit or conduct an interview at an institution must make application in writing to the Warden, indicating that he or she is familiar with the rules and regulations of the institution and agrees to comply with them.

(b) As a condition of authorizing interviews and making facilities available to conduct an interview, the news media representative shall recognize a professional responsibility to make reasonable attempts to verify any allegations regarding an inmate, staff member or institution.

(c) A representative of the news media is requested to provide the Bureau of Prisons an opportunity to respond to any allegation, which might be published or broadcast prior to distribution.

(d) A representative of the news media shall collect information only from the primary source. A representative of the news media may not obtain and use personal information from one inmate about another inmate who refuses to be interviewed.

(e) The Warden may be contacted concerning discussions or comments regarding applicability of any rule or order.

(f) Failure to adhere to the standards of conduct set forth by this rule for the news media representative constitutes grounds for denying that news media representative, or the news organization which he or she represents, permission to conduct an interview.

(g) Any questions as to the meaning or application of this subpart are resolved by the Director of the Bureau of Prisons.

§ 540.62 Institutional visits.

(a) A media representative shall make advance appointments for visits.

(b) When media representatives visit the institutions, photographs of programs and activities may be taken, and

media representatives may meet with groups of inmates engaged in authorized programs and activities. An inmate has the right not to be photographed and not to have his or her voice recorded by the media. A visiting representative of the media is required to obtain written permission from an inmate before photographing or recording the voice of an inmate participating in authorized programs and activities.

(c) The Warden may suspend all media visits during an institutional emergency and for a reasonable time after the emergency.

(d) An inmate currently confined in an institution may not be employed or act as a reporter or publish under a byline.

(e) Interviews by reporters and others not included in § 540.2 may be permitted only by special arrangement and with approval of the Warden.

§ 540.63 Personal interviews.

(a) An inmate may not receive compensation or anything of value for interviews with the news media.

(b) Either an inmate or a representative of the news media may initiate a request for a personal interview at an institution.

(c) Visits by the news media to conduct personal interviews are subject to the same conditions stated in § 540.62. A media representative shall make a request for personal interview within a reasonable time prior to the personal interview.

(d) Staff shall notify an inmate of each interview request, and shall, as a prerequisite, obtain from the inmate written consent for the interview prior to the interview taking place. The written consent or denial becomes part of the inmate's central file.

(e) As a prerequisite to granting the interview, an inmate must authorize the institutional staff to respond to comments made in the interview and to release information to the news media relative to the inmate's comments.

(f) The Warden shall normally approve or disapprove an interview request within 24 to 48 hours of the request.

(g) The Warden shall document any disapproval. A request for interview may be denied for any of the following reasons.

(1) The news media representative, or the news organization which he or she represents, does not agree to the conditions established by this subpart or has, in the past, failed to abide by the required conditions.

(2) The inmate is physically or mentally unable to participate. This must be supported by a medical officer's statement (a psychologist may be used to verify mental incapacity) to be placed in the inmate's record, substantiating the reason for disapproval.

(3) The inmate is a juvenile (under age 18) and written consent has not been obtained from the inmate's parent or guardian. If the juvenile inmate's parents or guardians are not known or their addresses are not known, the Warden of the institution shall notify the representative of the news media of the inmate's status as a juvenile, and shall then consider the request.

(4) The interview, in the opinion of the Warden, would endanger the health or safety of the interviewer, or would probably cause serious unrest or disturb the good order of the institution.

(5) The inmate is involved in a pending court action and the court having jurisdiction has issued an order forbidding such interviews.

(6) In the case of unconvicted persons (including competency commitments under 18 U.S.C. 4244 and 4246) held in federal institutions, interviews are not authorized until there is clearance with the court having jurisdiction, ordinarily through the U.S. Attorney's Office.

(7) The inmate is a "protection" case and revelation of his or her whereabouts would endanger the inmate's safety.

(h) Interviews are normally held in the institution visiting room during normal weekday business hours. The Warden may:

(1) Determine that another location is more suitable for conducting the interview;

(2) Limit interview time for the entire institution if the Warden determines that the interviews are imposing

a serious drain on staff or use of the facilities;

(3) Limit to one one-hour interview per month for an inmate in segregation, restricted, holdover, control unit, or hospital status if required by special security, custodial, or supervisory needs; and

(4) Limit the amount of audio, video, and film equipment or number of media personnel entering the institution if the Warden determines that the requested equipment or personnel would create a disruption within the institution.

(i) In conjunction with the personal interview, if the member of the media wishes to tour the institution, he or she must comply with the provisions of § 540.61.

(j) Interviews are not subject to auditory supervision.

§ 540.64 Press pools.

(a) The Warden may establish a press pool whenever he or she determines that the frequency of requests for interviews and visits reaches a volume that warrants limitations.

(b) Whenever the Warden establishes a press pool, the Warden shall notify all news media representatives who have requested interviews or visits that have not been conducted. Selected representatives are admitted to the institution to conduct the interviews under the specific guidelines established by the Warden.

(c) All members of the press pool are selected by their peers and consist of not more than one representative from each of the following groups:

- (1) The national and international news services;
- (2) The television and radio networks and outlets;
- (3) The news magazines and newspapers; and

(4) All media in the local community where the institution is located. If no interest has been expressed by one or more of these groups, no representative from such group need be selected.

(d) All news material generated by such a press pool is made available to all media without right of first publication or broadcast.

§ 540.65 Release of information.

(a) The Warden shall promptly make announcements stating the facts of unusual, newsworthy incidents to local news media. Examples are deaths, inside escapes, and institution emergencies.

(b) The Warden shall provide information about an inmate that is a matter of public record to the representatives of the media upon request. The information is limited to the inmate's:

- (1) Name;
- (2) Register number;
- (3) Place of incarceration;
- (4) Age;
- (5) Race;
- (6) Conviction and sentencing data: this includes the offense(s) for which convicted, the court where convicted, the date of sentencing, the length of sentence(s), the amount of good time earned, the parole eligibility date and parole release (presumptive or effective) date, and the date of expiration of sentence, and includes previous Federal, state, and local convictions;
- (7) Past movement via transfers or writs;
- (8) General institutional assignments.

(c) Information in paragraphs (b)(1) through (8) of this section may not be released if confidential for protection cases.

(d) A request for additional information concerning an inmate by a representative of the news media is referred to the Public Information Officer, Central Office, Washington, DC.

(e) The Public Information Officer, Central Office, Washington, DC shall release all announcements related to:

- (1) Bureau of Prisons policy;
- (2) Changes in an institutional mission;
- (3) Type of inmate population; or
- (4) Changes in executive personnel.

Subpart F—Incoming Publications

§ 540.70 Purpose and scope.

Except when precluded by statute (see § 540.72), the Bureau of Prisons permits an inmate to subscribe to or to receive publications without prior approval and has established procedures

to determine if an incoming publication is detrimental to the security, discipline, or good order of the institution or if it might facilitate criminal activity. The term publication, as used in this subpart, means a book, booklet, pamphlet, or similar document, or a single issue of a magazine, periodical, newsletter, newspaper, plus such other materials addressed to a specific inmate such as advertising brochures, flyers, and catalogs.

[61 FR 57568, Nov. 6, 1996]

§ 540.71 Procedures.

(a)(1) At all Bureau institutions, an inmate may receive hardcover publications and newspaper only from the publisher, from a book club, or from a bookstore.

(2) At medium security, high security, and administrative institutions, an inmate may receive softcover publications (for example, paperback books, newspaper, clippings, magazines, and other similar items) only from the publisher, from a book club, or from a bookstore.

(3) At minimum security and low security institutions, an inmate may receive softcover publications (other than newspapers) from any source.

(4) The Unit Manager may make an exception to the provisions of paragraphs (a)(1) and (2) of this section of the publication is no longer available from the publisher, book club, or bookstore. The Unit Manager shall require that the inmate provide written documentation that the publication is no longer available from these sources. The approval or disapproval of any request for an exception is to be documented, in writing, on an Authorization to Receive a Package form which will be used to secure the item.

(b) The Warden may reject a publication only if it is determined detrimental to the security, good order, or discipline of the institution or if it might facilitate criminal activity. The Warden may not reject a publication solely because its content is religious, philosophical, political, social or sexual, or because its content is unpopular or repugnant. Publications which may be rejected by a Warden include but are not limited to publications which meet one of the following criteria:

(1) It depicts or describes procedures for the construction or use of weapons, ammunition, bombs or incendiary devices;

(2) It depicts, encourages, or describes methods of escape from correctional facilities, or contains blueprints, drawings or similar descriptions of Bureau of Prisons institutions;

(3) It depicts or describes procedures for the brewing of alcoholic beverages, or the manufacture of drugs;

(4) It is written in code;

(5) It depicts, describes or encourages activities which may lead to the use of physical violence or group disruption;

(6) It encourages or instructs in the commission of criminal activity;

(7) It is sexually explicit material which by its nature or content poses a threat to the security, good order, or discipline of the institution, or facilitates criminal activity.

(c) The Warden may not establish an excluded list of publications. This means the Warden shall review the individual publication prior to the rejection of that publication. Rejection of several issues of a subscription publication is not sufficient reason to reject the subscription publication in its entirety.

(d) Where a publication is found unacceptable, the Warden shall promptly advise the inmate in writing of the decision and the reasons for it. The notice must contain reference to the specific article(s) or material(s) considered objectionable. The Warden shall permit the inmate an opportunity to review this material for purposes of filing an appeal under the Administrative Remedy Program unless such review may provide the inmate with information of a nature which is deemed to pose a threat or detriment to the security, good order or discipline of the institution or to encourage or instruct in criminal activity.

(e) The Warden shall provide the publisher or sender of an unacceptable publication a copy of the rejection letter. The Warden shall advise the publisher or sender that he may obtain an independent review of the rejection by writing to the Regional Director within 20 days of receipt of the rejection letter. The Warden shall return the rejected publication to the publisher or

sender of the material unless the inmate indicates an intent to file an appeal under the Administrative Remedy Program, in which case the Warden shall retain the rejected material at the institution for review. In case of appeal, if the rejection is sustained, the rejected publication shall be returned when appeal or legal use is completed.

(f) The Warden may set limits locally (for fire, sanitation or housekeeping reasons) on the number or volume of publications an inmate may receive or retain in his quarters. The Warden may authorize an inmate additional storage space for storage of legal materials in accordance with the Bureau of Prisons procedures on personal property of inmates.

[44 FR 38260, June 29, 1979, as amended at 47 FR 55130, Dec. 7, 1982; 50 FR 411, Jan. 3, 1985; 61 FR 57568, Nov. 6, 1996; 67 FR 77164, Dec. 17, 2002]

§ 540.72 Statutory restrictions requiring return of commercially published information or material which is sexually explicit or features nudity.

(a) When commercially published information or material may not be distributed by staff or made available to inmates due to statutory restrictions (for example, a prohibition on the use of appropriated funds to distribute or make available to inmates information or material which is sexually explicit or features nudity), the Warden or designee shall return the information or material to the publisher or sender. The Warden or designee shall advise the publisher or sender that an independent review of the decision may be obtained by writing to the Regional Director within 20 days of receipt of the notification letter. Staff shall provide the inmate with written notice of the action.

(b) *Definitions.* For the purpose of this section:

(1) *Commercially published information or material* means any book, booklet, pamphlet, magazine, periodical, newsletter, photograph or other pictorial depiction, or similar document, including stationery and greeting cards, published by any individual, organization, company, or corporation which is distributed or made available through any

means or media for a commercial purpose. This definition includes any portion extracted, photocopied, or clipped from such items.

(2) *Nudity* means a pictorial depiction where genitalia or female breasts are exposed.

(3) *Features* means the publication contains depictions of nudity or sexually explicit conduct on a routine or regular basis or promotes itself based upon such depictions in the case of individual one-time issues. Publications containing nudity illustrative of medical, educational, or anthropological content may be excluded from this definition.

(4) *Sexually explicit* means a pictorial depiction of actual or simulated sexual acts including sexual intercourse, oral sex, or masturbation.

[61 FR 57569, Nov. 6, 1996, as amended at 67 FR 77427, Dec. 18, 2002]

Subparts G–H [Reserved]

Subpart I—Telephone Regulations for Inmates

SOURCE: 44 FR 38249, June 29, 1979, unless otherwise noted.

§ 540.100 Purpose and scope.

(a) The Bureau of Prisons extends telephone privileges to inmates as part of its overall correctional management. Telephone privileges are a supplemental means of maintaining community and family ties that will contribute to an inmate's personal development. An inmate may request to call a person of his or her choice outside the institution on a telephone provided for that purpose. However, limitations and conditions may be imposed upon an inmate's telephone privileges to ensure that these are consistent with other aspects of the Bureau's correctional management responsibilities. In addition to the procedures set forth in this subpart, inmate telephone use is subject to those limitations which the Warden determines are necessary to ensure the security or good order, including discipline, of the institution or to protect the public. Restrictions on

inmate telephone use may also be imposed as a disciplinary sanction (see 28 CFR part 541).

(b) Except as provided in this rule, the Warden shall permit an inmate who has not been restricted from telephone use as the result of a specific institutional disciplinary sanction to make at least one telephone call each month.

[59 FR 15824, Apr. 4, 1994, as amended at 61 FR 90, Jan. 2, 1996]

§ 540.101 Procedures.

(a) *Telephone list preparation.* An inmate telephone call shall ordinarily be made to a number identified on the inmate's official telephone list. This list ordinarily may contain up to 30 numbers. The Associate Warden may authorize the placement of additional numbers on an inmate's telephone list based on the inmate's individual situation, e.g., size of family.

(1) During the admission and orientation process, an inmate who chooses to have telephone privileges shall prepare a proposed telephone list. At the time of submission, the inmate shall acknowledge that, to the best of the inmate's knowledge, the person or persons on the list are agreeable to receiving the inmate's telephone call and that the proposed calls are to be made for a purpose allowable under Bureau policy or institution guidelines.

(2) Except as provided in paragraph (a)(3) of this section, telephone numbers requested by an inmate will ordinarily be placed on the inmate's telephone list. When an inmate requests the placement of numbers for persons other than for immediate family or those persons already approved for the inmate's visiting list, staff ordinarily will notify those persons in writing that their numbers have been placed on the inmate's telephone list. The notice advises the recipient that the recipient's number will be removed from the list if the recipient makes a written request to the institution, or upon the written request of the inmate, or as provided in paragraph (a)(3) of this section.

(3) The Associate Warden may deny placement of a telephone number on an inmate's telephone list if the Associate Warden determines that there is a threat to institution security or good

order, or a threat to the public. Any disapproval must be documented in writing to both the inmate and the proposed recipient. As with concerns about any correctional issue, including any portion of these telephone regulations, an inmate may appeal the denial through the administrative remedy procedure (see 28 CFR part 542). The Associate Warden will notify the denied recipient that he or she may appeal the denial by writing to the Warden within 15 days of the receipt of the denial.

(b) *Telephone list update.* Each Warden shall establish procedures to allow an inmate the opportunity to submit telephone list changes on at least a quarterly basis.

(c) *Telephone access codes.* An inmate may not possess another inmate's telephone access code number. An inmate may not give his or her telephone access code number to another inmate, and is to report a compromised telephone access code number immediately to unit staff.

(d) *Placement and duration of telephone call.* The placement and duration of any telephone call is subject to availability of inmate funds. Ordinarily, an inmate who has sufficient funds is allowed at least three minutes for a telephone call. The Warden may limit the maximum length of telephone calling based on the situation at that institution (e.g., institution population or usage demand).

(e) *Exception.* The Warden may allow the placement of collect calls for good cause. Examples of good cause include, but are not limited to, inmates who are new arrivals to the institution, including new commitments and transfers; inmates confined at Metropolitan Correctional Centers, Metropolitan Detention Centers, or Federal Detention Centers; pretrial inmates; inmates in hold-over status; inmates who are without funds (see § 540.105(b)); and in cases of family emergencies.

[59 FR 15824, Apr. 4, 1994]

§ 540.102 Monitoring of inmate telephone calls.

The Warden shall establish procedures that enable monitoring of telephone conversations on any telephone located within the institution, said

monitoring to be done to preserve the security and orderly management of the institution and to protect the public. The Warden must provide notice to the inmate of the potential for monitoring. Staff may not monitor an inmate's properly placed call to an attorney. The Warden shall notify an inmate of the proper procedures to have an unmonitored telephone conversation with an attorney.

[48 FR 24622, June 1, 1983. Redesignated at 59 FR 15824, Apr. 4, 1994]

§ 540.103 Inmate telephone calls to attorneys.

The Warden may not apply frequency limitations on inmate telephone calls to attorneys when the inmate demonstrates that communication with attorneys by correspondence, visiting, or normal telephone use is not adequate.

[44 FR 38249, June 29, 1979. Redesignated at 59 FR 15824, Apr. 4, 1994]

§ 540.104 Responsibility for inmate misuse of telephones.

The inmate is responsible for any misuse of the telephone. The Warden shall refer incidents of unlawful inmate telephone use to law enforcement authorities. The Warden shall advise an inmate that violation of the institution's telephone regulations may result in institutional disciplinary action (See part 541, subpart B).

[44 FR 38249, June 29, 1979. Redesignated at 59 FR 15824, Apr. 4, 1994]

§ 540.105 Expenses of inmate telephone use.

(a) An inmate is responsible for the expenses of inmate telephone use. Such expenses may include a fee for replacement of an inmate's telephone access code that is used in an institution which has implemented debit billing for inmate telephone calls. Each inmate is responsible for staying aware of his or her account balance through the automated process provided by the system. Third party billing and electronic transfer of a call to a third party are prohibited.

(b) The Warden shall provide at least one collect call each month for an inmate who is without funds. An inmate without funds is defined as an inmate

who has not had a trust fund account balance of \$6.00 for the past 30 days. The Warden may increase the number of collect calls based upon local institution conditions (e.g., institution population, staff resources, and usage demand). To prevent abuses of this provision (e.g., inmate shows a pattern of depleting his or her commissary funds prior to placing collect calls), the Warden may impose restrictions on the provisions of this paragraph (b).

(c) [Reserved]

(d) The Warden may direct the government to bear the expense of inmate telephone use or allow a call to be made collect under compelling circumstances such as when an inmate has lost contact with his family or has a family emergency.

[59 FR 15824, Apr. 4, 1994, as amended at 60 FR 240, Jan. 3, 1995; 61 FR 90, Jan. 2, 1996]

PART 541—INMATE DISCIPLINE AND SPECIAL HOUSING UNITS

Subpart A—General

Sec.

541.2 Definitions.

Subpart B—Inmate Discipline and Special Housing Units

541.10 Purpose and scope.

541.11 Notice to inmate of Bureau of Prisons rules.

541.12 Inmate rights and responsibilities.

541.13 Prohibited acts and disciplinary severity scale.

541.14 Incident report and investigation.

541.15 Initial hearing.

541.16 Establishment and functioning of the Discipline Hearing Officer.

541.17 Procedures before the Discipline Hearing Officer.

541.18 Dispositions of the Discipline Hearing Officer.

541.19 Appeals from Unit Discipline Committee or Discipline Hearing Officer actions.

541.20 Justification for placement in disciplinary segregation and review of inmates in disciplinary segregation.

541.21 Conditions of disciplinary segregation.

541.22 Administrative detention.

541.23 Protection cases.

Subpart C [Reserved]